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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JAMES D. CALDWELL)	Case No. 3:17- cv - _____
)	
Plaintiff,)	
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	COMPLAINT
_____)	

COMES NOW, the plaintiff, JAMES D. CALDWELL by and through his attorney, CHARLES W. COE, to state and allege the following as his cause of action for his complaint.

I

This court has jurisdiction over this cause of action pursuant to 28 USC 1346(b) and 28 USC 2671, et seq., (The Federal Tort Claims Act) as hereinafter more fully appears.

II

Venue is proper in the United States District Court for this District of Alaska pursuant to 28 USC 1402(b). The plaintiff was a resident within the District of Alaska when this incident occurred and the acts or omissions complained of occurred within the District of Alaska. The United States is a defendant, since the acts and omissions complained of were as a result of acts and omissions of members of the U.S. Military at Joint Base Elmendorf-Richardson (JBER).

III

A Federal Tort Claim was filed with the United States Air Force on April 15, 2016, and it was denied on March 30, 2017. This lawsuit is being filed within six months of that denial.

IV

The United States of America is a defendant in this matter in that the hospital at Joint Base Elmendorf-Richardson (JBER) and its Department of Physical Therapy is part of the United States government, which is vicariously liable for the acts/omissions of their employees, representatives, contractors, and agents under the theories of respondeat superior, agency, negligence, joint enterprise, negligent entrustment, and negligent supervision. The term defendant in this complaint means the United States, the hospital on Joint Base Elmendorf-

Richardson (JBER), its Department of Physical Therapy, their employees, representatives, contractors, and/or agents at the Joint Base Elmendorf-Richardson (JBER). This military hospital is operated by the United States and the therapist discussed in this complaint was an employee of the United States.

V

All events relevant to the cause of action of this complaint occurred in the state of Alaska, at Joint Base Elmendorf-Richardson (JBER), Alaska.

VI

On or about June 24, 2014, plaintiff was seen at the Joint Base Elmendorf-Richardson (JBER) Hospital in the Physical Therapy Department for physical therapy for his right shoulder. He was injured by a physical therapist who was evaluating and testing his left shoulder. As the therapist tested the left shoulder he caused injuries to the bicep muscle, elbow, and shoulder. These injuries also caused injuries to his right shoulder.

VII

As a result of the defendant's treatment, which was below the standard of care, the plaintiff incurred a ruptured bicep and injuries to his left shoulder and subsequent injuries to his right shoulder.

VIII

Defendant had a duty to provide the plaintiff with a medical evaluation and treatment, which was within the standards of care provided by other health care specialists evaluating and treating patients with similar conditions as the plaintiff. In failing to properly evaluate and treat the plaintiff, the defendant breached this duty by applying excessive force to the plaintiff's arm, in tearing his bicep tendon, in injuring his shoulder, in failing and refusing to review his medical records or take a proper medical history before performing a Speeds Test, in placing his hands in an improper position on his left arm in light of the patient's pre-existing conditions while performing the Speeds Test, by failing to provide a Speeds Test using lighter force before applying excessive force, in performing the Speeds Test to evaluate the strength of his left arm, in testing his left arm in order to approve on-going previously approved therapy for his right arm, in failing to properly evaluate and treat plaintiff after he caused the injury to his left arm, and in failing to warn the plaintiff regarding potential injuries that could occur during the test or that the test should be stopped if the plaintiff felt pain.

IX

As a result of providing an evaluation and treatment below the standard of care, the plaintiff suffered injuries, which would not have otherwise occurred if the proper standard of care was used

X

In addition to breaching the standard of care the defendant was negligent in the evaluation and treatment of the plaintiff. This resulted in damages set forth in paragraph XI of this complaint.

XI

As a direct and proximate result of defendant's acts and omissions, plaintiff incurred the following damages:

1. Injuries to his left and right arms, bicep, and shoulder;
2. Medical expenses including hospitalization and transportation expenses;
3. Pain, suffering, loss of enjoyment of life, and impairment;
4. Lost wages; and
5. Other damages to be proven at trial.

WHEREFORE, plaintiff prays for a judgment against the defendant as follows:

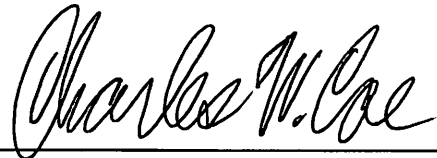
1. Compensatory damages in an amount within the jurisdiction of the U.S. District Court pursuant to 28 USC§ 1346(b) and 28 USC§ 2671;
2. Attorney fees and costs as allowed under the Federal Rules;

3. Prejudgment and post judgment interest allowed under the federal rules;

4. For such other relief as this court deems just and equitable.

DATED this 3rd day of May, 2017.

CHARLES W. COE
Attorney for Plaintiff

A handwritten signature in black ink, reading "Charles W. Coe", written over a horizontal line.

Charles W. Coe
ABA#7804002